IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

TONY KOLE and GHOST INDUSTRIES, LLC, an Illinois limited liability company, Plaintiffs, v. VILLAGE OF NORRIDGE, an Illinois municipal corporation, Defendant.	)	Case No. 11 CV 3871

PLAINTIFFS' RESPONSE TO DEFENDANT'S L.R.56.1 STATEMENT OF ADDITIONAL MATERIAL FACTS

NOW COME the Plaintiffs, Tony Kole and Ghost Industries, LLC, an Illinois limited liability company, by and through undersigned counsel, and, for their Response to Defendant's L.R. 56.1 Statement of Additional Material Facts, states as follows:

1. Filed in opposition of the Plaintiffs' Motion for Summary Judgment are the following:

Ex. 1 – August 11, 2010 email from Gaesor to Kole
Ex. 2 – Ghost Industries, LLC – Income by Customer Summary (Jan. 2011 to Dec. 2015)
Ex. 3 – Ghost Industries, LLC – Purchases by Vendor Summary (Jan. 2011 to Dec. 2015)
Ex. 4 – Ghost Industries, LLC – Sales by Customer Summary (Jan. 2011 to Dec. 2015)
Ex. 5 – Ghost Industries, LLC – Profit & Loss (Jan. 2011 to Dec. 2015)

RESPONSE: Admit.

2. Since 1982, at least 283 people were killed and 330 people were wounded in mass shootings in schools, government buildings, and religious buildings in the United States. (Mark Foilman, Gavin Aronsen, and Deanna Pan, "US Mass Shootings, 1982-2016: Data From Mother

Jones' Investigation," *available at* http://www.motherjones.com/politics/2012/12/massshootings-mother-jones-full-data (last visited Oct 1, 2016)).

REPSONSE: Unknown, as Plaintiffs were unable to locate the article on the Mother Jones website. However, even assuming the article contains the statistic cited by Defendant, Plaintiffs object to its relevance pursuant to *District of Columbia v. Heller*, 128 S.Ct. 2783 (2008), *McDonald v. City of Chicago*, 130 S.Ct. 3020 (2010) and *Illinois Association of Firearms Retailers v. City of Chicago*, 961 F.Supp.2d 928 (N.D.Ill. 2014). Plaintiffs also object to the characterization that even if the statistic is true, that Plaintiffs would be among that number, or would otherwise engage in wrongdoing while operating a lawful business.

3. Between 2012 and 2015, federal firearms licensees in Illinois reported the theft or loss of 1,247 firearms, including 582 stolen firearms. (U.S. Dept. of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, "FFL Thefts/Losses United States, January 1, 2015 - December 31, 2015," at 3, *available at* https://www.atf.gov/firearms/docs/report/2015-summary-firearms-reported-lost-and-stolen/download; U.S. Dept. of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, "FFL Thefts/Losses United States, January 1, 2014 - December 31, 2014," at 3, *available at* https://www.atf.gov/resource-center/docs/2014-summary-firearms-reported-lost-and-stolen/download; U.S. Dept. of Justice, "Bureau of Alcohol, Tobacco, Firearms and Explosives, "FFL Thefts/Losses United States, January 1, 2013 - December 31, 2013," at 3, *available at* https://wwv.atfv/rcsourcc-ccntcr/docs/2013summary-firearmsreportedlostandstolenpdf/download; U.S. Dept. of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, "2012 Summary: Firearms Reported Lost and Stolen," at 9, *available*

at https://www.atl.gov/resource-center/docs/2012-fircarrns-rcportcd-lost-and-stolcnjpdf0/download).

RESPONSE: Admit, the reports state the cited statistics, but deny that they are significant given the numbers of firearms that are the subject of lawful transactions per year across the State, never mind over a four year period. Further, even assuming the accuracy of the statistics cited by Defendant, Plaintiffs object to their relevance pursuant to *District of Columbia v. Heller*, 128 S.Ct. 2783 (2008), *McDonald v. City of Chicago*, 130 S.Ct. 3020 (2010) and *Illinois Association of Firearms Retailers v. City of Chicago*, 961 F.Supp.2d 928 (N.D.Ill. 2014). Plaintiffs also object to the characterization that even if the statistic is true, that Plaintiffs would be among that number, or would otherwise engage in wrongdoing while operating a lawful business.

4. Between 2009 and 2013, local weapons dealers sold more than 3,173 firearms later recovered in crimes in Chicago. (City of Chicago, "Tracing the Guns: The Impact of Illegal Guns on Violence in Chicago," at 6, *available at* https://www.cityofchicago.org/dam/city/depts/mayor/Press%20Room/Press%20Releases/2014/May/05.27.14TracingGuns.pdf).

RESPONSE: Unknown, as Plaintiffs were unable to open the link. However, even assuming the article contains the statistic cited by Defendant, Plaintiffs object to its relevance pursuant to *District of Columbia v. Heller*, 128 S.Ct. 2783 (2008), *McDonald v. City of Chicago*, 130 S.Ct. 3020 (2010) and *Illinois Association of Firearms Retailers v. City of Chicago*, 961 F.Supp.2d 928 (N.D.Ill. 2014). Plaintiffs also object to the characterization that even if the statistic is true, that Plaintiffs would be among that number, or would otherwise engage in wrongdoing while operating a lawful business.

5. On average, 12% of those firearms moved from the local retailer to a crime scene in less than three years, "a strong indicator that the gun was illegally trafficked and 'suggests illegal diversion or criminal intent associated with the retail purchase from the FFL.'" (*Id*. at 4, 7 (citations omitted)).

RESPONSE: Unknown, as Plaintiffs were unable to open the link. However, even assuming the article contains the statistic cited by Defendant, Plaintiffs object to its relevance pursuant to *District of Columbia v. Heller*, 128 S.Ct. 2783 (2008), *McDonald v. City of Chicago*, 130 S.Ct. 3020 (2010) and *Illinois Association of Firearms Retailers v. City of Chicago*, 961 F.Supp.2d 928 (N.D.Ill. 2014). Plaintiffs also object to the characterization that even if the statistic is true, that Plaintiffs would be among that number, or would otherwise engage in wrongdoing while operating a lawful business.

WHEREFORE, the Plaintiffs, Tony Kole and Ghost Industries, LLC, an Illinois limited liability company, requests this Honorable Court to grant their F.R.Civ.P. 56(a) Motion for Summary Judgment in its entirety, as well as any and all further relief as this Court deems just and proper.

Dated: November 28, 2016 Respectfully submitted,

By: /s/ David G. Sigale
Attorney for Plaintiff

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CERTIFICATE OF ATTORNEY AND NOTICE OF ELECTRONIC FILING

The undersigned certifies that:

1. On November 28, 2016, the foregoing document was electronically filed with the District Court Clerk *via* CM/ECF filing system;

2. Pursuant to F.R.Civ.P. 5, the undersigned certifies that, to his best information and belief, there are no non-CM/ECF participants in this matter.

/s/ David G. Sigale
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